

**LAWS RELEVANT TO
THE BOARD OF PUBLIC ROADS CLASSIFICATIONS AND STANDARDS**

**CHAPTER 13
CITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS**

**ARTICLE 9
Political Subdivisions Tort Claims Act
(Partial Listing)**

Section 13-912. Defective bridge or highway; damages; liability; limitation. If any person suffers personal injury or loss of life, or damage to his or her property by means of insufficiency or want of repair of a highway or bridge or other public thoroughfare, which a political subdivision is liable to keep in repair, the person sustaining the loss or damage, or his or her personal representative, may recover in an action against the political subdivision, and if damages accrue in consequence of the insufficiency or want of repair of a road or bridge or other public thoroughfare, erected and maintained by two or more political subdivisions, the action can be brought against all of the political subdivisions liable for the repairs of the same; and damages and costs shall be paid by the political subdivisions in proportion as they are liable for the repairs. The procedure for filing such claims and bringing suit shall be the same for claims under this section as for other claims under the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610. No political subdivision shall be liable for damages occasioned by defects in state highways and bridges thereon which the Department of Transportation is required to maintain, but the political subdivision shall not be relieved of liability until the state has actually undertaken construction or maintenance of such highways. It is the intent of the Legislature that minimum maintenance highways and roads shall not be deemed to be insufficient or in want of repair when they meet the minimum standards for such highways and roads pursuant to section 39-2109.

Source: Laws 1889, c. 7, § 4, p. 78; R.S.1913, § 2995; C.S.1922, § 2746; Laws 1929, c. 171, § 1, p. 585; C.S.1929, § 39-832; R.S.1943, § 39-834; Laws 1959, c. 167, § 2, p. 609; R.R.S.1943, § 39-834; Laws 1969, c. 138, § 10, p. 630; Laws 1983, LB 10, § 1; R.S.1943, (1983), § 23-2410; Laws 1996, LB 900, § 1026; Laws 2017, LB339, § 74.

Section 13-913. Defective bridge or highway; legislative intent. In enacting section 13-912, it is the intent of the Legislature that the liability of all political subdivisions based on the alleged insufficiency or want of repair of any highway or bridge or other public thoroughfare shall be the same liability that previously has been imposed upon counties pursuant to section 13-912. The Legislature further declares that judicial interpretations of section 13-912 governing the liability of counties on January 1, 1970, also shall be controlling on the liability of all political subdivisions for the alleged insufficiency or want of repair of any highway or bridge or other public thoroughfare. Notwithstanding other provisions of the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610, sections 13-912 to 13-914 shall be the only sections governing determination of liability of political subdivisions for the alleged insufficiency or want of repair of highways, or bridges or other public thoroughfares. As used in sections 13-912 and 13-913, public thoroughfares shall include all streets, alleys, and roads designed, intended, and primarily used for the movement of vehicular traffic and dedicated to public use.

Source: Laws 1969, c. 138, § 11, p. 631; Laws 1983, LB 10, § 2; R.S.1943, (1983), § 23-2411; Laws 1996, LB 900, § 1027.

Section 13-914. Defective bridge or highway; compliance with standards; effect. For purposes of sections 13-912 and 13-913, no minimum maintenance road or highway shall be deemed to be in want of repair or insufficient if it complies with the standards and level of minimum maintenance developed pursuant to section 39-2113.

Source: Laws 1983, LB 10, § 7; R.S.1943, (1983), § 23-2411.01.

CHAPTER 39 HIGHWAYS AND BRIDGES

ARTICLE 8 BRIDGES (Partial Listing)

(g) STATE AID BRIDGES

Section 39-846. State Aid Bridge Fund; created; use; investment. In order to expedite the replacement of deficient bridges, the State Aid Bridge Fund is hereby created to provide assistance to counties for replacement of bridges. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Source: Laws 1919, c. 190, tit. VII, art. III, § 1, p. 815; C.S.1922, § 8356; C.S.1929, § 39-1501; R.S.1943, § 39-846; Laws 1973, LB 87, § 1; Laws 1995, LB 7, § 35.

Cross References: **Nebraska Capital Expansion Act**, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

Section 39-847. State aid for bridges; application for replacement; costs; priorities; plans and specifications; contracts; maintenance. (1) Any county board may apply, in writing, to the Department of Transportation for state aid in the replacement of any bridge under the jurisdiction of such board. The application shall contain a description of the bridge, with a preliminary estimate of the cost of replacement thereof, and a certified copy of the resolution of such board, pledging such county to furnish fifty percent of the cost of replacement of such bridge. The county's share of replacement cost may be from any source except the State Aid Bridge Fund, except that where there is any bridge which is the responsibility of two counties, either county may make application to the department and, if the application is approved by the department, such county and the department may replace such bridge and recover, by suit, one-half of the county's cost of such bridge from the county failing or refusing to join in such application. All requests for bridge replacement under sections 39-846 to 39-847.01 shall be forwarded by the department to the Board of Public Roads Classifications and Standards. Such board shall establish priorities for bridge replacement based on critical needs. The board shall consider such applications and establish priorities for a period of time consistent with sections 39-2115 to 39-2119. The board shall return the applications to the department with the established priorities.

(2) The plans and specifications for each bridge shall be furnished by the department and replacement shall be under the supervision of the department and the county board.

(3) Any contract for the replacement of any such bridge shall be made by the department consistent with procedures for contracts for state highways and federal-aid secondary roads.

(4) After the replacement of any such bridge and the acceptance thereof by the department, any county having jurisdiction over it shall have sole responsibility for maintenance.

Source: Laws 1911, c. 112, § 2, p. 393; R.S.1913, § 2977; Laws 1919, c. 190, tit. VII, art. III, § 2, p. 815; Laws 1921, c. 260, § 1, p. 875; C.S.1922, § 8357; Laws 1923, c. 157, § 1, p. 382; Laws 1923, c. 156, § 1, p. 381; C.S.1929, § 39-1502; R.S.1943, § 39-847; Laws 1953, c. 287, § 61, p. 966; Laws 1973, LB 87, § 2; Laws 2017, LB339, § 114; Laws 2019, LB82, § 2. **Effective Date: March 8, 2019**

Section 39-847.01. State Aid Bridge Fund; State Treasurer; transfer funds to. The State Treasurer shall transfer monthly thirty-two thousand dollars from the share of the Department of Transportation of the Highway Trust Fund and thirty-two thousand dollars from the counties' share of the Highway Trust Fund which is allocated to bridges to the State Aid Bridge Fund.

Source: Laws 1973, LB 87, § 3; Laws 1986, LB 599, § 4; Laws 2017, LB339, § 115.

Cross References: Highway Trust Fund, see section 39-2215.

ARTICLE 21 FUNCTIONAL CLASSIFICATION

Section 39-2101. State highways; functional classification; declaration. Recognizing that safe and efficient transportation over public roads is a matter of major importance to all of the people in the state, the Legislature hereby determines and declares that an integrated system of public roads is essential to the general welfare of the State of Nebraska.

Adequate public roads provide for the free flow of traffic, protect the health and safety of the citizens of the state, result in lower cost of motor vehicle operation, increase property values, and generally promote the economic and social progress of the state.

Providing such a system of facilities and the efficient management, operation, and control thereof are recognized as urgent problems and proper objectives of legislation pertaining to all public roads.

As a result of the comprehensive three-year study of all public roads in Nebraska conducted by a committee of the Legislative Council as authorized by the Legislature in 1965 and 1967, a study through which determination has been made of the engineering, financial, and management needs of all public roads, a program has been developed to provide an integrated system of public roads for the state, its counties, and its municipalities.

Recognizing that cooperation among these governmental entities is essential in bringing to fruition the development of a truly integrated system of public roads, it is the intent of the Legislature to provide by law the structure upon which the state, its counties, and its municipalities can work as equal partners in the development, operation, and management of such a system. Fundamental to the development of an integrated system of public roads is a determination of the function each road segment serves. Through adoption by law of a functional classification system, it is the intent of the Legislature that each segment of public road shall be identified according to the function it serves. Identification of roads according to function then will permit the establishment of uniform standards of design, construction, operation, and maintenance for each

classification of road. Such standards will promote the general safety of the traveling public, enhance the free flow of traffic, and provide improved utilization of highway financing.

Responsibility for the various functional classifications of public roads shall be assigned by law to the state, the counties, and the municipalities, as appropriate, such assignments reflecting the general responsibilities of each entity.

Through establishment of a Board of Public Roads Classifications and Standards composed of representation from the state, counties, municipalities, and general public, it is the intent of the Legislature to give each governmental entity and the public an equal voice in developing reasonable standards for each classification of road which shall be adequate to meet the needs of an increasingly mobile society.

Both long-range planning and annual programming are essential to the orderly development of an integrated system of public roads. It is the intent of the Legislature to provide by law a structure which will enable each governmental entity to program its individual needs on a priority basis, yet to establish an intergovernmental relationship which will permit their working in cooperation with each other to attain the desired objective of an integrated system. The structure will have the flexibility necessary to recognize that annual programs cannot always be met as planned because of unforeseen problems which may arise.

To assure realization of the maximum benefits possible from the substantial investment Nebraska citizens make toward their public roads, it is the intent of the Legislature to provide by law a system of planning, programming, budgeting, reporting, and accounting for each governmental entity which will bring improved management methods. Such management will provide citizens the opportunity to know how each governmental entity intends to spend its highway money, and to determine its performance when measured against its plans.

Nebraska's public roads system is one of the largest in the nation; yet its population is relatively small and ranges from high concentrations of people in urban centers to vast rural areas in which the population is sparsely located. The citizens in these diverse areas have the same need, however, for a transportation system which will meet their respective needs. It is not economically feasible to develop all public roads throughout the state to the same high standards, and thus it becomes incumbent upon the Legislature to devise a program under which the roads most important to these diverse areas are developed to modern standards. Adoption of a functional classification system and implementation of modern management methods will combine to bring such a program into being and result in improved utilization of highway financing.

Recognizing that highway financing heretofore has been inadequate to meet the needs of a modern transportation system, and that the distribution of revenue has resulted in disparities of treatment, it is the intent of the Legislature to provide reasonable financing and more equitable distribution of revenue. The objectives of this total program are to bring the state highway system up to adequate standards in a twenty-year period, and to bring the road systems of its counties, and the street systems of its municipalities, up to adequate standards over a twenty-year period.

Source: Laws 1969, c. 312, § 1, p. 1116.

Annotations: This article contemplates continuous highway planning and improvements and every highway and bridge is subject to reevaluation and change. State ex rel. Goossen v. Board of Supervisors, 198 Neb. 9, 251 N.W.2d 655 (1977).

Section 39-2102. Functional classification; categories. For purposes of functional classification thereof, the public highways, roads, and streets of this state are hereby divided into the two broad categories of rural highways and municipal streets. Rural highways shall consist of all public highways and roads outside the limits of any incorporated municipality and municipal streets shall consist of all public streets within the limits of any incorporated municipality.

Source: Laws 1969, c. 312, § 2, p. 1119.

Section 39-2103. Rural highways; functional classifications. Rural highways are hereby divided into nine functional classifications as follows:

(1) Interstate, which shall consist of the federally designated National System of Interstate and Defense Highways;

(2) Expressway, which shall consist of a group of highways following major traffic desires in Nebraska which rank next in importance to the National System of Interstate and Defense Highways. The expressway system is one which ultimately should be developed to multilane divided highway standards;

(3) Major arterial, which shall consist of the balance of routes which serve major statewide interests for highway transportation. This includes super-two, which shall consist of two-lane highways designed primarily for through traffic with passing lanes spaced intermittently and on alternating sides of the highway to provide predictable opportunities to pass slower moving vehicles. This system is characterized by high-speed, relatively long-distance travel patterns;

(4) Scenic-recreation, which shall consist of highways or roads located within or which provide access to or through state parks, recreation or wilderness areas, other areas of geographical, historical, geological, recreational, biological, or archaeological significance, or areas of scenic beauty;

(5) Other arterial, which shall consist of a group of highways of less importance as through-travel routes which would serve places of smaller population and smaller recreation areas not served by the higher systems;

(6) Collector, which shall consist of a group of highways which pick up traffic from many local or land-service roads and carry it to community centers or to the arterial systems. They are the main school bus routes, mail routes, and farm-to-market routes;

(7) Local, which shall consist of all remaining rural roads, except minimum maintenance roads and remote residential roads;

(8) Minimum maintenance, which shall consist of (a) roads used occasionally by a limited number of people as alternative access roads for areas served primarily by local, collector, or arterial roads or (b) roads which are the principal access roads to agricultural lands for farm machinery and which are not primarily used by passenger or commercial vehicles; and

(9) Remote residential, which shall consist of roads or segments of roads in remote areas of counties with (a) a population density of no more than five people per square mile or (b) an area of at least one thousand square miles, and which roads or segments of roads serve as primary access to no more than seven residences. For purposes of this subdivision, residence means a structure which serves as a primary residence for more than six months of a calendar year. Population shall be determined using data from the most recent federal decennial census.

The rural highways classified under subdivisions (1) through (3) of this section should, combined, serve every incorporated municipality having a minimum population of one hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census or sufficient commerce, a part of which will be served by stubs or spurs, and along with rural highways classified under subdivision (4) of this section, should serve the major recreational areas of the state.

For purposes of this section, sufficient commerce means a minimum of two hundred thousand dollars of gross receipts under the Nebraska Revenue Act of 1967.

Source: Laws 1969, c. 312, § 3, p. 1119; Laws 1972, LB 866, § 2; Laws 1976, LB 724, § 1; Laws 1980, LB 873, § 1; Laws 1983, LB 10, § 3; Laws 2008, LB1068, § 4; Laws 2017, LB113, § 42; Laws 2018, LB1009, § 1.

Cross References: Nebraska Revenue Act of 1967, see section 77-2701.

Section 39-2104. Municipal streets; functional classifications. Municipal streets are hereby divided into six functional classifications as follows:

(1) Interstate, which shall consist of the federally designated national system of interstate and defense highways;

(2) Expressway, which shall consist of two categories: Extensions of rural expressways and some additional routes which serve very high volumes of local traffic within urban areas;

(3) Major arterial, which shall generally consist of extensions of the rural major arterials which provide continuous service through municipalities for long-distance rural travel. They are the arterial streets used to transport products into and out of municipalities;

(4) Other arterial, which shall consist of two categories: Municipal extensions of rural other arterials, and arterial movements peculiar to a municipality's own complex, that is streets which interconnect major areas of activity within a municipality, such as shopping centers, the central business district, manufacturing centers, and industrial parks;

(5) Collector, which shall consist of a group of streets which collect traffic from residential streets and move it to smaller commercial centers or to higher arterial systems; and

(6) Local, which shall consist of the balance of streets in each municipality, principally residential access service streets and local business streets. They are characterized by very short trip lengths, almost exclusively limited to vehicles desiring to go to or from an adjacent property.

Source: Laws 1969, c. 312, § 4, p. 1120.

Section 39-2105. Functional classifications; jurisdictional responsibility. Jurisdictional responsibility for the various functional classifications of public highways and streets shall be as follows:

(1) The state shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all roads classified under the category of rural highways as interstate, expressway, and major arterial, and the municipal extensions thereof, except that the state shall not be responsible for that portion of a municipal extension which exceeds the design of the rural highway leading into the municipality. When the design of a rural highway differs at the different points where it leads into the municipality, the state's responsibility for the municipal extension thereof shall be limited to the lesser of the two designs. The state shall be responsible for the entire interstate system under either the rural or municipal category and for connecting links between the interstate and the nearest existing state highway system in rural areas, except that if such a connecting link has not been improved and a sufficient study by the Department of Transportation results in the determination that a link to an alternate state highway would provide better service for the area involved, the department shall have the option of providing the alternate route, subject to satisfactory local participation in the additional cost of the alternate route;

(2) The various counties shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all roads classified as other arterial, collector, local, minimum maintenance, and remote residential under the rural highway category;

(3) The various incorporated municipalities shall have the responsibility for the design, construction, reconstruction, maintenance, and operation of all streets classified as expressway which are of a purely local nature, that portion of municipal extensions of rural expressways and major arterials which exceeds the design of the rural portions of such systems, and responsibility for those streets classified as other arterial, collector, and local within their corporate limits; and

(4) Jurisdictional responsibility for all scenic-recreation roads and highways shall remain with the governmental subdivision which had jurisdictional responsibility for such road or highway prior to its change in classification to scenic-recreation made pursuant to this section and sections 39-2103, 39-2109, and 39-2113.

Source: Laws 1969, c. 312, § 5, p. 1121; Laws 1971, LB 738, § 1; Laws 1980, LB 873, § 2; Laws 1983, LB 10, § 4; Laws 2008, LB1068, § 5; Laws 2017, LB339, § 146.

Section 39-2106. Board of Public Roads Classifications and Standards; established; members; number; appointment; qualifications; compensation; expenses. To assist in developing the functional classification system, there is hereby established the Board of Public Roads Classifications and Standards which shall consist of eleven members to be appointed by the Governor with the approval of the Legislature. Of the members of such board, two shall be representatives of the Department of Transportation, three shall be representatives of the counties, one of whom shall be a licensed county highway superintendent in good standing and two of whom shall be county board members, three shall be representatives of the municipalities who shall be either public works directors or licensed city street superintendents in good standing, and three shall be lay citizens who shall represent the three congressional districts of the state. The county members on the board shall represent the various classes of counties, as defined in section 23-1114.01, in the following manner: One shall be a representative from either a Class 1 or Class 2 county; one shall be a representative from either a Class 3 or Class 4 county; and one shall be a representative from either a Class 5, Class 6, or Class 7 county. The municipal members of the board shall represent municipalities of the following sizes by population: One shall be a representative from a municipality of less than two thousand five hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census; one shall be a representative from a municipality of two thousand five hundred to fifty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census; and one shall be a representative from a municipality of over fifty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census. In making such appointments, the Governor shall consult with the Director-State Engineer and with the appropriate county and municipal officials and may consult with organizations representing such officials or representing counties or municipalities as may be appropriate. At the expiration of the existing term, one member from the county representatives, the municipal representatives, and the lay citizens shall be appointed for a term of two years; and two members from the county representatives, the municipal representatives, and the lay citizens shall be appointed for terms of four years. One representative from the department shall be appointed for a two-year term and the other representative shall be appointed for a four-year term. Thereafter, all such appointments shall be for terms of four years each. Members of such board shall receive no compensation for their services as such, except that the lay members shall receive the same compensation as members of the State Highway Commission, and all members shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as provided in sections 81-1174 to 81-1177 for state employees. All expenses of such board shall be paid by the department.

Source: Laws 1969, c. 312, § 6, p. 1122; Laws 1971, LB 100, § 1; Laws 1981, LB 204, § 61; Laws 2017, LB113, § 43; Laws 2017, LB339, § 147.

Section 39-2107. Board of Public Roads Classifications and Standards; office space; furniture; equipment; supplies; personnel. The Department of Transportation shall furnish the Board of Public Roads Classifications and Standards with necessary office space, furniture, equipment, and supplies as well as necessary professional, technical, and clerical assistants.

Source: Laws 1969, c. 312, § 7, p. 1123; Laws 2017, LB339, § 148.

Section 39-2108. Board of Public Roads Classifications and Standards; proceedings; subject to Administrative Procedure Act. All proceedings of the Board of Public Roads Classifications and Standards shall be subject to the provisions of the Administrative Procedure Act.

Source: Laws 1969, c. 312, § 8, p. 1123.

Cross References: **Administrative Procedure Act**, see section 84-920.

Section 39-2109. Board of Public Roads Classifications and Standards; functional classification; criteria; adoption; hearing; duties. The Board of Public Roads Classifications and Standards shall develop and adopt the specific criteria for each functional classification set forth in sections 39-2103 and 39-2104, which criteria shall be consistent with the general criteria set forth in those sections. No such criteria shall be adopted until after public hearings have been held thereon at such times and places as to assure interested parties throughout the state an opportunity to be heard thereon. Following their adoption, the board shall provide an electronic copy of such criteria to the Secretary of State and the Clerk of the Legislature. The board shall also provide an electronic notification of such criteria to the appropriate representative of each county and each incorporated municipality and to the Director-State Engineer.

Source: Laws 1969, c. 312, § 9, p. 1123; Laws 1980, LB 873, § 3; Laws 1983, LB 10, § 5; Laws 2008, LB1068, § 6; Laws 2019, LB82, § 4. **Effective Date: March 8, 2019**

Section 39-2110. Functional classification; specific criteria; assignment to highways, roads, streets. Following adoption and publication of the specific criteria required by section 39-2109, the Department of Transportation, after consultation with the appropriate local authorities in each instance, shall assign a functional classification to each segment of highway, road, and street in this state. Before assigning any such classification, the department shall make reasonable effort to resolve any differences of opinion between the department and any county or municipality. Whenever a new road or street is to be opened or an existing road or street is to be extended, the department shall, upon a request from the operating jurisdiction, assign a functional classification to such segment in accordance with the specific criteria established under section 39-2109.

Source: Laws 1969, c. 312, § 10, p. 1123; Laws 2008, LB1068, § 7; Laws 2017, LB339, § 149.

Section 39-2111. Functional classification; assignment; appeal. The county or municipality may appeal to the Board of Public Roads Classifications and Standards from any action taken by the Department of Transportation in assigning any functional classification under section 39-2110. Upon the taking of such an appeal, the board shall review all information pertaining to the

assignment, hold a hearing thereon if deemed advisable, and render a decision on the assigned classification. The decision of the board may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1969, c. 312, § 11, p. 1123; Laws 1971, LB 100, § 2; Laws 1988, LB 352, § 32; Laws 2017, LB339, § 150.

Cross References: **Administrative Procedure Act**, see section 84-920.

Section 39-2112. Functional classification; assignment; Department of Transportation; request to reclassify; county board; public hearing; decision; appeal. Any county or municipality may, based on changing traffic patterns or volume or a change in jurisdiction, request the Department of Transportation to reclassify any segment of highway, road, or street. Any county that wants to use the minimum maintenance, remote residential, or scenic-recreation functional classification or wants to return a road to its previous functional classification may request the department to reclassify an applicable segment of highway or road. If a county board wants a road or a segment of road to be classified as remote residential, it shall hold a public hearing on the matter prior to requesting the department to reclassify such road or segment of road. The department shall review a request made under this section and either grant or deny the reclassification in whole or in part. Any county or municipality dissatisfied with the action taken by the department under this section may appeal to the Board of Public Roads Classifications and Standards in the manner provided in section 39-2111.

Source: Laws 1969, c. 312, § 12, p. 1124; Laws 1971, LB 100, § 3; Laws 2008, LB1068, § 8; Laws 2017, LB339, § 151.

Section 39-2113. Board of Public Roads Classifications and Standards; minimum standards; signs required; when; rule for relaxing; request for review; decision; additional programs. (1) In addition to the duties imposed upon it by section 39-2109, the Board of Public Roads Classifications and Standards shall develop minimum standards of design, construction, and maintenance for each functional classification set forth in sections 39-2103 and 39-2104. Except for scenic-recreation road standards, such standards shall be such as to assure that each segment of highway, road, or street will satisfactorily meet the requirements of the area it serves and the traffic patterns and volumes which it may reasonably be expected to bear.

(2) The standards for a scenic-recreation road and highway classification shall insure a minimal amount of environmental disruption practicable in the design, construction, and maintenance of such highways, roads, and streets by the use of less restrictive, more flexible design standards than other highway classifications. Design elements of such a road or highway shall incorporate parkway-like features which will allow the user-motorist to maintain a leisurely pace and enjoy the scenic and recreational aspects of the route and include rest areas and scenic overlooks with suitable facilities.

(3) The standards developed for a minimum maintenance road and highway classification shall provide for a level of minimum maintenance sufficient to serve farm machinery and the occasional or intermittent use by passenger and commercial vehicles. The standards shall provide that any defective bridges, culverts, or other such structures on, in, over, under, or part of the minimum maintenance road may be removed by the county in order to protect the public safety and need not be replaced by equivalent structures except when deemed by the county board to be essential for public safety or for the present or future transportation needs of the county. The standards for such minimum maintenance roads shall include the installation and maintenance

by the county at entry points to minimum maintenance roads and at regular intervals thereon of appropriate signs to adequately warn the public that the designated section of road has a lower level of maintenance effort than other public roads and thoroughfares. Such signs shall conform to the requirements in the Manual on Uniform Traffic Control Devices adopted pursuant to section 60-6,118.

(4) The standards developed for a remote residential road classification shall provide for a level of maintenance sufficient to provide access to remote residences, farms, and ranches by passenger and commercial vehicles. The standards shall allow for one-lane traffic where sight distance is adequate to warn motorists of oncoming traffic. The standards for remote residential roads shall include the installation and maintenance by the county at entry points to remote residential roads of appropriate signs to adequately warn members of the public that they are traveling on a one-lane road. Such signs shall conform to the requirements in the Manual on Uniform Traffic Control Devices adopted pursuant to section 60-6,118.

(5) The board shall by rule provide for the relaxation of standards for any functional classification in those instances in which their application is not feasible because of peculiar, special, or unique local situations.

(6) Any county or municipality which believes that the application of standards for any functional classification to any segment of highway, road, or street would work a special hardship, or any other interested party which believes that the application of standards for scenic-recreation roads and highways to any segment of highway, road, or street would defeat the purpose of the scenic-recreation functional classification contained in section 39-2103, may request the board to relax the standards for such segment. The Department of Transportation, when it believes that the application of standards for any functional classification to any segment of highway that is not hard surfaced would work a special hardship, may request the board to relax such standards. The board shall review any request made pursuant to this section and either grant or deny it in whole or in part. This section shall not be construed to apply to removal of a road or highway from the state highway system pursuant to section 39-1315.01.

(7) In cooperation with the Department of Transportation, counties, and municipalities, the board is authorized to develop, support, approve, and implement programs and project strategies that provide additional flexibility in the design and maintenance standards. Once a program is established, the board shall allow project preapproval for all projects that conform to the agreed-upon program. The programs shall be set out in memorandums of understanding or guidance documents and may include, but are not limited to, the following:

(a) Practical design, flexible design, or similar programs or strategies intended to focus funding on the primary problem or need in constructing projects that will not meet all the standards but provide substantial overall benefit at a reasonable cost to the public;

(b) Asset preservation or preventative maintenance programs and strategies that focus on extending the life of assets such as, but not limited to, pavement and bridges that may incorporate benefit cost, cost effectiveness, best value, or lifecycle analysis in determining the project approach and overall benefit to the public; and

(c) Context sensitive design programs or similar programs that consider the established needs and values of a county, municipality, community, or other connected group to enable projects that balance safety while making needed improvements in a manner that fits the surroundings and provides overall benefit to the public.

Source: Laws 1969, c. 312, § 13, p. 1124; Laws 1973, LB 324, § 1; Laws 1980, LB 873, § 4; Laws 1983, LB 10, § 6; Laws 1993, LB 370, § 42; Laws 2008, LB1068, § 9; Laws 2017, LB339, § 152; Laws 2019, LB82, § 5. **Effective Date: March 8, 2019**

Section 39-2114. Counties and municipalities; contract between themselves. In order to achieve the efficiencies and economics resulting from unified operations, the Legislature encourages the counties and municipalities to make use of the Interlocal Cooperation Act or the Joint Public Agency Act by contracting between and among themselves for cooperative programs of administering all phases of their road and street programs.

Source: Laws 1969, c. 312, § 14, p. 1124; Laws 1999, LB 87, § 72; Laws 2019, LB82, § 6.
Effective Date: March 8, 2019

Cross References: **Interlocal Cooperation Act**, see section 13-801.
Joint Public Agency Act, see section 13-2501.

Section 39-2115. Six-year plan or program; basis; certification form; failure to file; penalty; funds placed in escrow. The Department of Transportation and each county and municipality shall develop, adopt, maintain as a public record, and annually update a long-range, six-year plan or program of highway, road, and street improvements based on priority of needs and calculated to contribute to the orderly development of an integrated statewide system of highways, roads, and streets. The department and each county and municipality shall annually certify compliance with the requirements of this section to the Board of Public Roads Classifications and Standards using the certification form developed by the board pursuant to section 39-2120. If any county or municipality, or the department, shall fail to file its certification form on or before its due date, the board shall so notify the local governing board, the Governor, and the State Treasurer, who shall suspend distribution of any highway-user revenue allocated to such county or municipality, or the department, until the certification form has been filed. Such funds shall be held in escrow for six months until the county or municipality complies. If the county or municipality complies within the six-month period it shall receive the money in escrow, but after six months, if the county or municipality fails to comply, the money in the escrow account shall be lost to the county or municipality and shall be distributed to other counties or municipalities, as appropriate, in the manner provided by law for allocation of highway-user revenue.

Source: Laws 1969, c. 312, § 15, p. 1124; Laws 1971, LB 100, § 4; Laws 1973, LB 137, § 1; Laws 1976, LB 724, § 2; Laws 2017, LB339, § 153; Laws 2019, LB82, § 7. **Effective Date: March 8, 2019**

Section 39-2118. Department of Transportation; plan or program for specific highway improvements; certify compliance with Board of Public Roads Classifications and Standards. The Department of Transportation shall annually develop, adopt, and maintain as a public record a plan or program for specific highway improvements for the current year. In so doing, the department shall take into account all federal funds which will be available to the department for such year. The department shall annually certify compliance with the requirements of this section to the Board of Public Roads Classifications and Standards using the certification form developed by the board pursuant to section 39-2120.

Source: Laws 1969, c. 312, § 18, p. 1125; Laws 1971, LB 100, § 7; Laws 1976, LB 724, § 4; Laws 2017, LB339, § 155; Laws 2019, LB82, § 8. **Effective Date: March 8, 2019**

Section 39-2119. Counties and municipalities; plan or program for specific improvements; hearing; duty to certify compliance; penalty; funds placed in escrow. Each county and

municipality shall annually develop, adopt, and maintain as a public record, a one-year plan or program for specific highway, road, or street improvements for the current year. No such plan or program, or revision to such plan or program, shall be adopted until after a public hearing thereon and its approval by the governing body. Each county and municipality shall schedule and hold the public hearing each year, and such hearing may be held prior to or in conjunction with that entity's annual public hearing on its proposed budget statement in any year such budget statement hearing is held pursuant to section 13-506. Each county and municipality shall annually certify compliance with the requirements of this section to the Board of Public Roads Classifications and Standards using the certification form developed by the board pursuant to section 39-2120. If any county or municipality shall fail to comply with the provisions of this section, the board shall so notify the local governing board, the Governor, and the State Treasurer, who shall suspend distribution of any highway-user revenue allocated to such county or municipality until there has been compliance. Such funds shall be held in escrow for six months until the county or municipality complies. If the county or municipality complies within the six-month period it shall receive the money in escrow, but after six months, if the county or municipality fails to comply, the money in the escrow account shall be lost to the county or municipality and shall be distributed to other counties or municipalities, as appropriate, in the manner provided by law for allocation of highway-user revenue.

Source: Laws 1969, c. 312, § 19, p. 1126; Laws 1971, LB 100, § 8; Laws 1973, LB 137, § 2; Laws 1976, LB 724, § 5; Laws 2007, LB277, § 3; Laws 2019, LB82, § 9. **Effective Date:** **March 8, 2019**

Section 39-2120. Certification form for annual filing; Board of Public Roads Classifications and Standards; develop; contents. The Board of Public Roads Classifications and Standards shall develop and schedule for implementation a certification form for annual filing pursuant to section 39-2121 by the Department of Transportation and each county and municipality. The certification form shall include:

(1) A statement from the department and each county or municipality that it has developed, adopted, and included in its public records the plans, programs, or standards required by sections 39-2115 to 39-2119;

(2) A statement that the department and each county or municipality:

(a) Meets the plans, programs, or standards of design, construction, and maintenance for its highways, roads, or streets;

(b) Expends all tax revenue for highway, road, or street purposes in accordance with approved plans, programs, or standards, including county and municipal tax revenue as well as highway-user revenue allocations;

(c) Uses a system of revenue and cost accounting which clearly includes a comparison of receipts and expenditures for approved budgets, plans, programs, and standards;

(d) Uses a system of budgeting which reflects uses and sources of funds in terms of plans, programs, or standards and accomplishments;

(e) Uses an accounting system including an inventory of machinery, equipment, and supplies; and

(f) Uses an accounting system that tracks equipment operation costs; and

(3) The information required under subsection (2) of section 39-2510 or subsection (2) of section 39-2520, when applicable.

The certification by the department shall be signed by the Director-State Engineer. The certification by each county and municipality shall be signed by the board chairperson or mayor and shall include a copy of the resolution or ordinance of the governing body of the county or municipality authorizing the signing of the certification form.

Source: Laws 1969, c. 312, § 20, p. 1126; Laws 1971, LB 100, § 9; Laws 2017, LB339, § 156; Laws 2019, LB82, § 10. **Effective Date: March 8, 2019**

Section 39-2121. Department of Transportation; counties; municipalities; certification form; filing; penalty; when imposed; appeal. (1) The certification form required to be filed with the Board of Public Roads Classifications and Standards pursuant to section 39-2120 shall be filed annually by the Department of Transportation by July 31 and by each county and municipality by October 31.

(2) If any county or municipality or the department fails to file such certification form on or before its due date, the board shall so notify the local governing board, the Governor, and the State Treasurer who shall suspend distribution of any highway-user revenue allocated to such county or municipality or the department until the certification form has been filed. Such funds shall be held in escrow for six months until the county or municipality complies. If the county or municipality complies within the six-month period it shall receive the money in escrow, but after six months, if the county or municipality fails to comply, the money in the escrow account shall be lost to the county or municipality and shall be distributed to other counties or municipalities, as appropriate, in the manner provided by law for allocation of highway-user revenue.

(3) If any county or municipality either (a) files a materially false certification form or (b) constructs any highway, road, or street below the minimum standards developed under section 39-2113, without having received prior approval thereof, such county's or municipality's share of highway-user revenue allocated during the following calendar year shall be reduced by ten percent and the amount of any such reduction shall be distributed among the other counties or municipalities, as appropriate, in the manner provided by law for allocation of highway-user revenue. The penalty for filing a materially false certification form and the penalty for constructing a highway, road, or street below established minimum standards without prior approval shall be assessed by the board only after a review of the facts involved in such case and the holding of a public hearing on the matter. The decision thereafter rendered by the board may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Source: Laws 1969, c. 312, § 21, p. 1127; Laws 1971, LB 100, § 10; Laws 1973, LB 137, § 3; Laws 1976, LB 724, § 6; Laws 1988, LB 352, § 33; Laws 2017, LB339, § 157; Laws 2019, LB82, § 11. **Effective Date: March 8, 2019**

Cross References: **Administrative Procedure Act**, see section 84-920.

Section 39-2122. Board of Public Roads Classifications and Standards; powers. The Board of Public Roads Classifications and Standards may make occasional random checks of county and municipal construction projects to determine that the standards of design and construction developed under section 39-2113 are being met.

Source: Laws 1969, c. 312, § 22, p. 1128; Laws 1971, LB 100, § 11; Laws 2019, LB82, § 12. **Effective Date: March 8, 2019**

Section 39-2124. Legislative intent. It is the intent of the Legislature to recognize the responsibilities of the Department of Transportation, of the counties, and of the municipalities in their planning programs as authorized by state law and by home rule charter and to encourage the acceptance and implementation of comprehensive, continuing, cooperative, and coordinated

planning by the state, the counties, and the municipalities. Sections 13-914 and 39-2101 to 39-2125 are not intended to prohibit or inhibit the actions of the counties and of the municipalities in their planning programs and their subdivision regulations, nor are sections 13-914 and 39-2101 to 39-2125 intended to restrict the actions of the municipalities in their creation of street improvement districts and in their assessment of property for special benefits as authorized by state law or by home rule charter.

Source: Laws 1969, c. 312, § 24, p. 1128; Laws 1971, LB 100, § 13; Laws 1983, LB 10, § 8; Laws 2007, LB277, § 5; Laws 2017, LB339, § 158.

Section 39-2125. Sections, how construed. Sections 13-914 and 39-2101 to 39-2125 shall be construed as an independent act, complete in itself, and in the event of conflict between any provisions of sections 13-914 and 39-2101 to 39-2125 and any other statutes, the provisions of sections 13-914 and 39-2101 to 39-2125 shall control.

Source: Laws 1969, c. 312, § 25, p. 1128; Laws 1983, LB 10, § 9; Laws 2007, LB277, § 6.